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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,236	01/21/2004	Kia Silverbrook	RRA16US	2201
24011	7590	12/13/2005	EXAMINER	
SILVERBROOK RESEARCH PTY LTD 393 DARLING STREET BALMAIN, NSW 2041 AUSTRALIA			MARTINEZ, CARLOS A	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,236

Applicant(s)

SILVERBROOK, KIA

Examiner

Carlos A. Martinez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/21/04 (amended 07/07/05) is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20041108</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Acknowledgement is made in the receipt of a Preliminary Amendment, dated July 7, 2005.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: element 46 (refer to Fig. 6), element 8016 (refer to Fig. 10, Fig. 11, and Fig. 12), element 8012 (refer to Fig. 14), element 8023 (refer to Fig. 17), element 125 (refer to Fig. 25), element 108 (refer to Fig. 26), element 104 (refer to Fig. 26), element 125A (refer to Fig. 26), and element 189 (refer to Fig. 26). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "190" has been used to designate both a spring (Fig. 27 and pg. 23, line 23) and lug (Fig. 35, 36, and 37; and pg. 22, line 20). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the

application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 122 (pg. 7, line 14) [note: should refer to Fig. 3], 124 (pg. 7, line 15) [note: should refer to Fig. 3], 156 (pg. 13, line 28) [note: not found in Fig. 20; suggest that reference be made to Fig. 31], 192 (pg. 23, line 1), 35 (pg. 24, line 14), and 14 (pg. 27, line 29). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly

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labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The abstract of the disclosure is objected to because the abstract includes improper language such as "said". Correction is required. See MPEP § 608.01(b).

7. The disclosure is objected to because of the following informalities: "a number printing" (pg. 4, line 1) [note: suggest that change be made to "a number of printing"], "56which" (pg. 7, line 18), "Figure 4" (pg. 15, line 21) [note: should refer to Figure 34], "bias" (pg. 23, line 26) [note: suggest that change be made to "biasing"], and "andflex" (pg. 25, line 5).

Also reference character "801" has been used to designate both a nozzle arrangements (pg. 8, line 20) and silicon wafer substrate (pg. 8, line 28). Also reference character "28" has been used to designate both an ink outlet pin (pg. 27, line 7) and reservoirs (pg. 26, line 25).

Appropriate correction is required.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3/1 (claim 3 dependent on claim 1) of copending Application No. 10/760263 in view of Silverbrook (US6488422 B1).

-- Claim 3/1 of Application No. 10/760263 recites a printing fluid storage (line 3), a printhead in fluid communication with the printing fluid storage (line 4), an assembly arranged to direct air over the printhead, the assembly including filter (line 5), and a pagewidth printhead (lines 10 and 11).

-- However, claim 3/1 of Application No. 10/760263 fails to recite an elongated body housing the printing fluid storage and the even distribution of the compressed air along the pagewidth printhead from the air distribution assembly.

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-- US6488422 B1 teaches an air distribution assembly arranged to evenly distribute compressed air along the pagewidth printhead (refer to element 54 of Fig. 14 and lines 8 – 21 of column 7; element 61 of Fig. 6 and lines 12 – 14 of column 5; and element 41 of Fig. 6 and lines 22 – 35 of column 7), and US6488422 B1 discloses an elongated body housing the printing fluid storage (refer to elements 35 and 40 of Fig. 11, element 39 of Fig. 10, element 93 of Fig. 26, and text from line 63 of column 4 to line 11 of column 5).

-- Therefore, it would have been obvious to one having skill in the art at the time the invention was made to modify the device of Application No. 10/760263 to include an air distribution assembly arranged to evenly distribute compressed air along the pagewidth printhead, as taught by US6488422 B1, for the purpose of providing a means of keeping foreign particles away from the pagewidth printhead. Further, it would have been obvious to one having skill in the art at the time the invention was made to also modify the device of Application No. 10/760263 to include an elongated body housing the printing fluid storage, as taught by US6488422 B1, for the purpose of containing/protecting/supporting the printing fluid utilized by the pagewidth printhead.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 3 recites the limitation "the filter" and "the threshold level" in lines 17 and 18 of pg. 30. Since claim 3 is dependent on claim 1 and there is no mention of a filter or a threshold level in the latter claim, there is insufficient antecedent basis for this limitation in the claim. As such, the claimed phrase "includes a plurality of pores sized to determine the threshold level" is indefinite as the metes and bounds of the threshold level cannot be ascertained, as claimed, in connection with claim 1.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silverbrook (US6152619) in view of Silverbrook (US6488422 B1).

-- US6152619 discloses a printer cartridge (refer to element 42 of Fig. 7) with an "elongated body housing a printing fluid storage" (refer to elements 110, 111, 104, 105, and 106 of Fig. 13 and lines 40 – 47, 57 – 60 column 6) that is adapted to be received within a cradle or supporting framework/mechanism (refer to element 40 of Fig. 5 to 7 and lines 32 – 41 of column 4), a

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“pagewidth printhead attached to said body and in fluid communication with the printing fluid storage” (refer to element 102 of Fig. 13 and lines 3 – 9, 40 – 46 of column 6).

-- US6152619 teaches an air distribution assembly (refer to elements 113 -115 of Fig. 13 and lines 28 – 35 of column 6) with respect to the ink reservoirs; however, US6152619 fails to teach an air distribution assembly arranged to distribute compressed air along the pagewidth printhead.

-- US6488422 B1 teaches an air distribution assembly arranged to evenly distribute compressed air along the pagewidth printhead (refer to element 54 of Fig. 14 and lines 8 – 21 of column 7; element 61 of Fig. 6 and lines 12 – 14 of column 5; and element 41 of Fig. 6 and lines 22 – 35 of column 7).

-- Therefore, it would have been obvious to one having skill in the art at the time the invention was made to modify the device of US6152619 to include an air distribution assembly arranged to evenly distribute compressed air along the pagewidth printhead, as taught by US6488422 B1, for the purpose of providing a means of keeping foreign particles away from the pagewidth printhead.

Allowable Subject Matter

14. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter:

Claim 2 is allowable over the art of record because the prior art does not teach a filter sealing the

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length of a channel and arranged to direct air along its length to a pagewidth printhead upon air pressure within a channel attaining a threshold level as set forth in the claimed invention.

Pertinent Art References

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Appropriate prior art, which is nearest to the subject matter defined in the claims, is listed in the Notice of References Cited. These prior art references, such as US6238044 B1, US6347864 B1, and US2002/0140775 A1, are included because they pertain to print cartridges or subject matter/elements pertinent to print cartridges similar to those defined in the claims of the applicant.

Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Martinez whose telephone number is (571)272-8349. The examiner can normally be reached on 8:30 am - 5:00 pm (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, STEPHEN D. MEIER can be reached on (571)272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CAM
12/01/2005


HAI PHAM
PRIMARY EXAMINER